

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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MICHAEL ROSENBERGER,

Plaintiff,

Index No.:
Date Purchased:

-against-

THE CHURCH OF SAINT CLARE,
THE ROMAN CATHOLIC DIOCESE OF ALBANY,
JOHN DOE and JANE DOE, priests, clergy and
administrators whose names are unknown to the
Plaintiff,

Plaintiff designates
ALBANY
County as the place of trial.

Defendants.

The basis of the venue is
Defendants' place of
business.

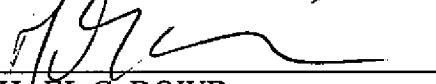
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SUMMONS

To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
September 23, 2019


MICHAEL G. DOWD
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640

ANDREW MANCILLA
ROBERT FANTONE
Mancilla & Fantone LLP
Of Counsel to Michael G. Dowd
260 Madison Avenue, 22nd Floor
New York, New York 10016
(646) 225-6686
Andrew@law-mf.com
Robert@law-mf.com

Attorneys for Plaintiff Michael Rosenberger

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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MICHAEL ROSENBERGER,

Plaintiff,

Index No.:
Date Filed:

-against-

THE CHURCH OF SAINT CLARE,
THE ROMAN CATHOLIC DIOCESE OF ALBANY,
JOHN DOE and JANE DOE, priests, clergy and
administrators whose names are unknown to the
Plaintiff,

VERIFIED COMPLAINT

Defendants.

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Plaintiff, by his attorneys, MICHAEL G. DOWD, as and for Complaint, alleges and
complains of the Defendants as follows:

JURISDICTION and VENUE

1. This action is timely commenced pursuant to the New York State Child Victims Act, dated February 14, 2019, and CPLR § 214-g.
2. This Court has jurisdiction pursuant to CPLR § 301 as Defendants' principal place of business is in New York and because much of the unlawful conduct complained of herein occurred in New York.
3. Venue is proper pursuant to CPLR § 503 because Albany County is the principal place of business of Defendants. In addition, many of the events giving rise to this action occurred in Albany County.

AS AND FOR A FIRST CAUSE OF ACTION
(NEGLIGENT SUPERVISION)

4. The Plaintiff, Michael Rosenberger (hereinafter "Plaintiff") was born on July 11, 1963 and currently resides in Saratoga County, New York.
5. Plaintiff was a Roman Catholic and was a parishioner at Defendant CHURCH OF SAINT CLARE (hereinafter "ST. CLARE'S"), which is a parish within the defendant THE ROMAN CATHOLIC DIOCESE OF ALBANY (hereinafter "DIOCESE"). ST. CLARE'S is located in Albany, New York, which is in Albany County.
6. Plaintiff was baptized, confirmed, attended mass, and received his sacraments through the Roman Catholic Church.
7. Upon information and belief, and at all times hereinafter mentioned, Defendant DIOCESE was and is a not-for-profit religious corporation organized and existing around and under by virtue of the laws of the State of New York. Its principal headquarters are located in Albany, New York, which is in Albany County.
8. Upon information and belief, EDWARD BERNARD SCHARFENBERGER (hereinafter "SCHARFENBERGER") is currently the Roman Catholic Bishop of the DIOCESE.
9. Upon information and belief, the Bishop is the Chief Executive Officer of all parishes and parish schools in the DIOCESE and as part of said responsibilities assigned the priests to work in the parishes.
10. Upon information and belief, all of SCHARFENBERGER's predecessor(s) were the Chief Executive Officers of all parishes and parish schools in the DIOCESE

and as part of said responsibilities assigned the priests to work in the parishes, including MARK HAIGHT (hereinafter "HAIGHT"). This includes those Bishops who assigned HAIGHT to his parish positions.

11. Upon information and belief, at all times mentioned herein, SCHARFENBERGER and the above-referenced predecessor Bishops in the Office of the Bishop, along with Defendant DIOCESE, created the policies and procedures to be followed by priests within the DIOCESE. The Office of the Bishop and Defendant DIOCESE were responsible for investigating complaints against its parish clergy. In this capacity, the Office of the Bishop either directly or through Diocesan officials appointed by them, established policies and procedures by which complaints of sexual abuse against parish clergy, priests, and staff were to be dealt with and investigated by the DIOCESE.
12. Upon information and belief, at all times mentioned herein, the Office of the Bishop was also responsible for removing and/or suspending parish clergy and priests from their duties.
13. Upon information and belief, at all times mentioned herein, HAIGHT was a priest at Defendant ST. CLARE's having been assigned and otherwise authorized to work there by the Office of the Bishop.
14. Upon information and belief, Defendant ST. CLARE's is a Roman Catholic parish church within the DIOCESE:
15. In approximately 1974, while Plaintiff was a parishioner and altar boy at ST. CLARE's, HAIGHT sexually abused Plaintiff.

16. Prior to the sexual abuse, HAIGHT began a pattern of grooming Plaintiff for the purpose of sexually abusing him. This grooming included, but was not limited to, selecting Plaintiff as the altar boy for various events at church (including funerals, for which he would pay Plaintiff \$5.00 to \$10.00), and showing Plaintiff great affection.
17. In the summer of 1974, Plaintiff joined an overnight hiking trip in the Adirondack Mountains organized by ST. CLARE and lead by HAIGHT.
18. Upon information and belief, during the hike, HAIGHT lead Plaintiff and approximately eight (8) other children to a lean-to in the Adirondack Mountains where they would spend the night.
19. HAIGHT slept next to Plaintiff. In the middle of the night, HAIGHT reached over to Plaintiff and rubbed and groped Plaintiff's penis over his sleeping bag. HAIGHT sexually abused Plaintiff for several minutes.
20. Upon information and belief, sometime in 2018 a list of those credibly accused of child sexual abuse was released by the DIOCESE. HAIGHT was included on that list.
21. HAIGHT was included on that list of credibly accused priests published by the DIOCESE.
22. The fact that HAIGHT was included on that list of credibly accused priests is an admission by Defendant DIOCESE that HAIGHT sexually abused minors.
23. Upon information and belief, Plaintiff was taught and otherwise informed by Defendants DIOCESE and ST. CLARE by word and deed that he should obey, trust, and respect the DIOCESE and HAIGHT.

24. Upon information and belief, since at least 1950 through the present, Defendants DIOCESE and ST. CLARE knew the risk of sexual abuse of minor parishioners by priests and other staff working in the DIOCESE.
25. Upon information and belief, at all times mentioned herein, Defendants DIOCESE and ST. CLARE knew that minors sexually abused in the Catholic Church would suffer psychological and emotional injuries, as well as other damages.
26. Upon information and belief, at all times mentioned herein, Defendant DIOCESE aided and abetted the concealment of criminal conduct by failing and refusing to report allegations of child sexual abuse to appropriate New York civil authorities.
27. Upon information and belief, at the time of the acts alleged herein, HAIGHT was an employee of, and acting as an agent of Defendants DIOCESE and ST. CLARE.
28. Upon information and belief, Defendants DIOCESE and ST. CLARE had a duty to protect Plaintiff as a minor parishioner from HAIGHT's criminal sexual acts.
29. Upon information and belief, Defendants DIOCESE and ST. CLARE failed to adequately and completely supervise HAIGHT, and as a result of this failure and negligence, proximately caused Plaintiff to be sexually abused by HAIGHT.
30. The aforementioned occurrences of sexual abuse were caused by the negligence, carelessness, recklessness, and the willful, wanton, reckless and grossly negligent conduct of Defendants DIOCESE and ST. CLARE and their agents, servants, and/or employees, in failing to properly and adequately supervise the conduct of HAIGHT as it related to Plaintiff.

31. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
32. That by reason of the foregoing, Defendants DIOCESE and ST. CLARE are also liable to Plaintiff for punitive and exemplary damages.
33. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
34. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION**(NEGLIGENT FAILURE TO WARN)**

35. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.
36. Upon information and belief, prior to and at all times herein mentioned, Defendants DIOCESE and ST. CLARE and their agents, servants, and employees,

knew or should have known that HAIGHT violated DIOCESE and ST. CLARE's relevant rules, regulations and protocols prohibiting priests like HAIGHT from sexually abusing and otherwise harming minor parishioners, including Plaintiff.

37. The Defendants DIOCESE and ST. CLARE and their agents, servants, and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to warn Plaintiff that the failure of HAIGHT to abide by DIOCESE and ST. CLARE's rules, regulations and protocols regarding prohibitions on employees being alone with minor parishioners put Plaintiff at risk for being sexually abused by HAIGHT.
38. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
39. That by reason of the foregoing, Defendants DIOCESE and ST. CLARE are also liable to Plaintiff for punitive and exemplary damages.
40. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).

41. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION

**(NEGLIGENT FAILURE TO PROVIDE A SAFE AND SECURE
ENVIRONMENT)**

42. Plaintiff repeats, reiterates, and realleges each and every allegation contained in the above paragraphs of this Complaint, with the same force and effect as if fully set forth at length herein.

43. The Defendants DIOCESE and ST. CLARE assumed a duty to protect the safety and welfare of Plaintiff as more fully set forth above, when Plaintiff participated as a parishioner in ST. CLARE related activities such as attending the parish school, confession, and counseling. This duty imposed upon said Defendants, the duty to provide a reasonably safe and secure environment for Plaintiff while he was participating in parish programs.

44. When Plaintiff was in said Defendants' care, said Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.

45. Defendants DIOCESE and ST. CLARE and their agents and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to provide a safe and secure environment for Plaintiff while he participated as a minor in parish programs and as such was sexually abused by HAIGHT.

46. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, confusion, humiliation, fright, anxiety, a severe shock to his nervous system, and has been caused to suffer physical pain and mental anguish, emotional and psychological damages as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and that Plaintiff as a result has become and will continue to be obligated to expend sums of money for medical expenses for treatment of said maladies.
47. That by reason of the foregoing, Defendants DIOCESE and ST. CLARE are also liable to Plaintiff for punitive and exemplary damages.
48. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
49. That the amount of damages sought exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against the defendants, together with compensatory and punitive damages, and the interest, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York
September 23, 2019

Respectfully submitted,


MICHAEL G. DOWD, ESQ.
600 Third Avenue, 15th Floor
New York, New York 10016
(212) 751-1640

ANDREW MANCILLA
ROBERT FANTONE
Mancilla & Fantone LLP
Of Counsel to Michael G. Dowd
260 Madison Avenue, 22nd Floor
New York, New York 10016
(646) 225-6686
Andrew@law-mf.com
Robert@law-mf.com

Attorneys for Plaintiff Michael Rosenberger

VERIFICATION BY ATTORNEY

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is an attorney for the Plaintiff in the above-entitled action with offices located at 600 Third Ave, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York
September 23, 2019



MICHAEL G. DOWD
Attorney for Plaintiff
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640